

Remarks

Claims 1-14, 16, and 17 remain in the application. Claims 1, 8, 16, and 17 are independent. Applicant submits no new matter is being introduced by way of this Reply. Applicant respectfully traverses the rejections and objections. Reconsideration of this application in light of the following remarks is respectfully requested.

35 U.S.C. 103(a) rejections

Claim 1-4 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pelaez et al., U.S. Publication 2003/0147373, hereafter “Pelaez” in view of Hymel, U.S. Patent Application 2003/0216137, hereafter “Hymel.”

Applicant’s Claim 1 recites, in part, “as a response to a failed attempt for establishing the connection, the device automatically starting a multimedia messaging service (MMS) and activating a recording function of a sound clip...” In an example embodiment, the device automatically starts a multimedia messaging service in response to a failed attempt. The cited references do not teach automatically starting a multimedia messaging service.

Pelaez does not teach automatically starting multimedia messaging service. In support of this assertion, the previous Office Action, dated May 27, 2009, on page 3, states “...Pelaez does not specifically disclose...the multimedia actions starts automatically...” Applicant agrees. Further, since Pelaez does not disclose starting multimedia actions automatically, Pelaez cannot disclose automatically starting a multimedia messaging service.

Moreover, the assertion on the current Office Action on page 3 appears to indicate “the step of providing the first user with an option to send a multimedia mail message is equivalent to the start of the multimedia messaging service.” Applicant respectfully disagrees. In particular, the option to send a message is not the same thing as starting a service. Even if the option to send was the same thing, which it is not, the service would not be started automatically as claimed by Applicant’s Claim 1. Accordingly, Pelaez does not disclose automatically starting a multimedia messaging service.

Hymel provides a method for playing a message to a telephone number after an established connection. Hymel does not appear to teach starting a MMS after a failed attempt let alone automatically starting the MMS. Therefore, Hymel cannot teach automatically starting a multimedia messaging service (Hymel, Figure 5 and paragraph 25).

The combination of Pelaez and Hymel would provide a system requiring a user option to start a MMS and not automatically starting a MMS. Accordingly, Pelaez and Hymel either taken separately or in combination do not teach or suggest the claim feature of “as a response to a failed attempt for establishing the connection, the device automatically starting a multimedia messaging service (MMS) and activating a recording function of a sound clip....” as recited in Claim 1. Accordingly, Applicants believe Claim 1 is in condition for allowance. Claims 2-4 and 6 depend from Claim 1 so they too should be allowable for at least the same reasons as Claim 1.

Claim 5 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pelaez et in view of Hymel, and in further view of MPEP 2144.03.

Claim 7 depends from Claim 1 so it should be allowable for at least the same reasons as stated above in view of Claim 1.

Claims 8-14 and 16-17 appear to be rejected on page 6 for the same reasons as Claims 1-7.

Independent Claims 8, 16, and 17 include similar features as Claim 1 and as such should be allowable. Since Claims 9-14 depend from Claim 8, they too should be allowable by way of their dependency of Claim 8. Acceptance is requested.

Conclusion

It is clear from the foregoing that the claims are in condition for allowance. An early formal notice of allowance of claims is respectfully requested. Examiner is invited to contact the undersigned with any questions.

Please charge any deficiency or credit any overpayment that may be due in this matter to Deposit Account Number 50-0270.

Respectfully submitted,

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Certificate of Service

I hereby certify that this correspondence is being filed with the U.S. Patent and Trademark Office via EFS-Web on the date indicated below.

/Denise M. Wilson/
Signed

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Date